



Education Legislation Amendment (Startup Year and Other Measures) Act 2023

No. 36, 2023

**An Act to amend legislation in relation to education
and research, and for related purposes**

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No. 36, 2023

An Act to amend legislation in relation to education and research, and for related purposes

[Assented to 28 June 2023]

The Parliament of Australia enacts:

1 Short title

This Act is the *Education Legislation Amendment (Startup Year and Other Measures) Act 2023*.

No. 36, 2023 *Education Legislation Amendment (Startup Year and Other Measures)* 1
Act 2023

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	28 June 2023
2. Schedules 1 to 3	The day after this Act receives the Royal Assent.	29 June 2023
3. Schedule 4	Immediately after the commencement of the provisions covered by table item 2.	29 June 2023

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Startup year

Part 1—STARTUP-HELP assistance

Higher Education Support Act 2003

1 Paragraph 3-10(d)

Omit “providers.”, substitute “providers;”.

2 After paragraph 3-10(d)

Insert:

- (e) STARTUP-HELP assistance for accelerator program courses.

3 After paragraph 5-1(4)(e)

Insert:

- (ea) Part 3-7 (STARTUP-HELP assistance);

4 Subsection 19-35(5)

Repeal the subsection, substitute:

- (5) A higher education provider that receives any payment under section 128D-1 on account of amounts of *STARTUP-HELP assistance for an *accelerator program course must have open, fair and transparent procedures that, in the provider’s reasonable view, are based on merit for making decisions about:
 - (a) the selection, from among the persons who seek to enrol with the provider in that accelerator program course, of persons to enrol; and
 - (b) the selection of students for receipt of STARTUP-HELP assistance in relation to that accelerator program course; and
 - (c) the treatment of students undertaking that accelerator program course.
- (6) Subsections (4) and (5) do not prevent a higher education provider taking into account, in making decisions mentioned in those subsections, educational disadvantages that a particular student has experienced.

5 At the end of section 19-36A

Add:

- (3) A higher education provider must not offer or provide a benefit, or cause a benefit to be offered or provided, if the benefit would be reasonably likely to induce a person to make a *request for Commonwealth assistance in relation to enrolling in an *accelerator program course with the provider.

Civil penalty: 120 penalty units.

- (4) Subsection (3) does not apply in relation to a benefit specified in the Higher Education Provider Guidelines.

6 At the end of subsection 19-36B(1)

Add “, or an *accelerator program course”.

7 Subsection 19-36B(2)

After “or *course of study”, insert “, or *accelerator program course”.

8 Paragraph 19-36C(1)(b)

Repeal the paragraph, substitute:

(b) contacts the student:

- (i) to market, advertise or promote a unit of study or a *course of study, or enrol the student in a unit of study or course of study; or
- (ii) to market, advertise or promote an *accelerator program course, or enrol the student in an accelerator program course.

9 Subsection 19-36C(2)

After “or *course of study”, insert “, or *accelerator program course”.

10 Paragraph 19-37(3)(a)

After “course of study”, insert “, or *accelerator program course,”.

11 Subparagraphs 19-37(3)(c)(i) and (ii)

After “course of study”, insert “or accelerator program course”.

12 Paragraph 19-38(4)(o)

After “*courses of study”, insert “or *accelerator program courses”.

13 After subsection 19-42(1)

Insert:

- (1A) Before enrolling a person in an *accelerator program course, a higher education provider must assess the person as academically suited to undertake that accelerator program course.

Civil penalty: 120 penalty units.

14 Subsection 19-42(2)

After “subsection (1)”, insert “or (1A)”.

15 Paragraph 19-45(1)(a)

After “*courses of study”, insert “or *accelerator program courses”.

16 Section 19-85

Repeal the section, substitute:

19-85 Basic requirement

A higher education provider must charge, in accordance with the requirements of this Act:

- (a) *student contribution amounts and *tuition fees for each unit of study in which it enrolls students; and
- (b) an *accelerator program course fee for each *accelerator program course in which it enrolls students.

17 After section 19-90

Insert:

19-92 Determining accelerator program course fees for all students

- (1) This section applies to an *accelerator program course that a higher education provider provides or proposes to provide during a period ascertained in accordance with the Higher Education Provider Guidelines.

- (2) The provider must determine one *accelerator program course fee that is to apply to students who may enrol in the course during the period.
- (3) A person's *accelerator program course fee* for an *accelerator program course is the fee determined for the course under subsection (2).

18 After section 19-95

Insert:

19-97 Schedules of accelerator program course fees

- (1) This section applies if a higher education provider is required by section 19-92 to determine an *accelerator program course fee for an *accelerator program course the provider provides or proposes to provide during a period ascertained in accordance with the Higher Education Provider Guidelines.
- (2) The provider must give the Minister a schedule of the *accelerator program course fees determined under section 19-92 for all the *accelerator program courses it provides or proposes to provide during the period. It must give the schedule:
 - (a) in a form approved in writing by the Minister (if any); and
 - (b) in accordance with the requirements that the Minister determines in writing (if any).
- (3) The provider must:
 - (a) ensure that the schedule provides sufficient information to enable a person to work out, for each *accelerator program course the provider provides or is to provide during the period, the person's *accelerator program course fee; and
 - (b) publish the schedule for a particular period by the date ascertained in accordance with the Higher Education Provider Guidelines; and
 - (c) ensure that the schedule is available to all students enrolled, and persons seeking to enrol, with the provider on request and without charge.

Civil penalty: 60 penalty units.

19 Section 65-1

Omit “4 kinds of assistance” (wherever occurring), substitute “5 kinds of assistance”.

20 Section 65-1

Omit:

- SA-HELP assistance—assistance to a student on whom a student services and amenities fee is imposed (see Part 3-5).

substitute:

- SA-HELP assistance—assistance to a student on whom a student services and amenities fee is imposed (see Part 3-5); and
- STARTUP-HELP assistance—assistance to a student undertaking an accelerator program course (see Part 3-7).

21 Section 65-1

Omit “and SA-HELP assistance”, substitute “, SA-HELP assistance and STARTUP-HELP assistance”.

22 Paragraph 126-1(1)(b)

Repeal the paragraph, substitute:

- (b) on the day on which the fee is payable, the student is enrolled with the provider in one or more of the following:
 - (i) a *course of study or a *bridging course for overseas-trained professionals;
 - (ii) an *accelerator program course; and

23 Subsection 126-1(2)

Repeal the subsection, substitute:

- (2) A *request for Commonwealth assistance*, in relation to a *student services and amenities fee imposed for a period on a person who is enrolled with a higher education provider in one or more of the courses mentioned in paragraph (1)(b), means a document:

- (a) in which the person requests the Commonwealth to provide assistance under this Act in relation to the fee for the period; and
- (b) that is in the form approved by the Minister.

24 Subsection 126-5(2)

Repeal the subsection, substitute:

- (2) Despite subsections (1) and (1A), a student does not meet the citizenship or residency requirements in relation to a *student services and amenities fee imposed on the student by a higher education provider if the provider reasonably expects that:
 - (a) for a student enrolled in one course for the purposes of paragraph 126-1(1)(b)—the student will not undertake in Australia any *units of study with the provider, or any or the *accelerator program course (as applicable); or
 - (b) for a student enrolled in more than one course for the purposes of paragraph 126-1(1)(b)—the student will not undertake in Australia:
 - (i) any units of study with the provider; and
 - (ii) if one of the courses is an accelerator program course—any of the accelerator program course.

25 At the end of Chapter 3

Add:

Part 3-7—STARTUP-HELP assistance

Division 128A—Introduction

128A-1 What this Part is about

A student may be entitled to STARTUP-HELP assistance for an accelerator program course if certain requirements are met. In particular:

- (a) the course must lead to a qualification that is accredited, by a suitable higher education provider, as being integral to the development of startup businesses; and

- (b) the provider must have selected the student for STARTUP-HELP assistance.

The amount of assistance to which the student may be entitled is based on the accelerator program course fee less any up-front payments. There is a limit on the total amount of assistance that the student can receive. The assistance is paid to the provider to discharge the student's liability to pay the fee.

Note 1: Amounts of assistance under this Part may form part of a person's HELP debts that the Commonwealth recovers under Part 4-2.

Note 2: This Part does not apply to Table C providers: see section 5-1.

128A-5 The STARTUP-HELP Guidelines

*STARTUP-HELP assistance is also dealt with in the STARTUP-HELP Guidelines. The provisions of this Part indicate when a particular matter is or may be dealt with in these Guidelines.

Note: The STARTUP-HELP Guidelines are made by the Minister under section 238-10.

Division 128B—Who is entitled to STARTUP-HELP assistance?

128B-1 Entitlement to STARTUP-HELP assistance

Entitlement to STARTUP-HELP assistance

- (1) A student is entitled to *STARTUP-HELP assistance for an *accelerator program course in which the student is enrolled with a higher education provider if:
- (a) the student meets the citizenship or residency requirements under section 128B-30; and
 - (b) any of the following apply:
 - (i) the student is in the final year of an *undergraduate course of study;
 - (ii) the student is enrolled in a *postgraduate course of study;

- (iii) the student was awarded, no more than 36 months before the person commenced the accelerator program course, a qualification at level 7, 8, 9 or 10 of the *Australian Qualifications Framework; and
 - (c) the student has not received more than one amount of STARTUP-HELP assistance (for this purpose, disregard any amount of assistance that has been *reversed under Division 128E); and
 - (d) the *census date for the accelerator program course is on or after 1 July 2023; and
 - (e) the student:
 - (i) enrolled in the accelerator program course on or before the census date for the course; and
 - (ii) at the end of the census date, remained so enrolled; and
 - (f) the student *meets the tax file number requirements (see section 187-1); and
 - (g) the student has, on or before the census date for the accelerator program course, completed, signed and given to an *appropriate officer of the provider a *request for Commonwealth assistance in relation to the course; and
 - (h) the student has been assessed by the provider as academically suited to undertake the accelerator program course; and
 - (i) the student has applied to the provider for receipt of STARTUP-HELP assistance in relation to the accelerator program course; and
 - (j) the student meets the *student identifier requirements under subsection (4); and
 - (k) the provider has selected the student for receipt of STARTUP-HELP assistance in relation to the accelerator program course (see section 128B-35).
- (2) Subsection (1) has effect subject to the following provisions:
- (a) section 128B-5 (multiple courses at same time);
 - (b) section 128B-10 (not a genuine student);
 - (c) section 128B-15 (unreasonable study load);
 - (d) section 128B-20 (overseas campus).

Academically suited

- (3) The assessment for the purposes of paragraph (1)(h) must be done in accordance with any requirements specified in the Higher Education Provider Guidelines made for the purposes of section 19-42 (assessment of students as academically suited).

When a student meets the student identifier requirements

- (4) A student meets the *student identifier requirements under this subsection if:
- (a) the student has a student identifier immediately before the *census date; and
 - (b) before the census date, the student notifies the student's student identifier to:
 - (i) an *appropriate officer of the higher education provider; and
 - (ii) the *Secretary.
- (5) A notification under paragraph (4)(b) may be included in a *request for Commonwealth assistance that the student has given to the higher education provider in relation to the *accelerator program course.

Definition of request for Commonwealth assistance

- (6) A ***request for Commonwealth assistance***, in relation to a person enrolling in an *accelerator program course with a higher education provider, means a document:
- (a) in which the person requests the Commonwealth to provide assistance under this Act in relation to the course; and
 - (b) that is in the form approved by the Minister.

128B-5 No entitlement: multiple courses at same time

- (1) If, apart from this subsection, a student would be entitled to *STARTUP-HELP assistance under subsection 128B-1(1) for 2 or more *accelerator program courses in which the student is enrolled at the same time, the student is entitled to STARTUP-HELP assistance for only the one course selected under subsection (2) of this section.

- (2) The one course for which the student is entitled is selected by applying either or both of the following principles, as needed:
 - (a) if the student enrolled at the same time in 2 or more courses—select the course the student elects, in writing, for the purposes of this paragraph;
 - (b) if the student enrolled at different times in 2 or more courses—select the course the student enrolled in first.
- (3) The STARTUP-HELP Guidelines may prescribe requirements and other matters in relation to elections by students for the purposes of paragraph (2)(a).

128B-10 No entitlement: not a genuine student

- (1) A student is not entitled to *STARTUP-HELP assistance for an *accelerator program course if the *Secretary determines that the student is not a genuine student in relation to the course.

Note: A decision under this subsection that a student is not entitled to STARTUP-HELP assistance is reviewable under Part 5-7.

- (2) In determining whether a student is a genuine student for the purposes of subsection (1), the *Secretary must have regard to the matters (if any) specified in the Higher Education Provider Guidelines.
- (3) If a determination under subsection (1) is made in writing, the determination is not a legislative instrument.

128B-15 No entitlement: unreasonable study load

- (1) A student is not entitled to *STARTUP-HELP assistance for an *accelerator program course (a *new course*) provided, or to be provided, by a higher education provider if the sum of the following amounts is more than 2:
 - (a) the *EFTSL value of the new course;
 - (b) the sum of the EFTSL values of each other unit of study:
 - (i) that has a *census date during the 12 month period ending on the census date for the new course; and
 - (ii) for which the person is entitled to *HECS-HELP assistance or *FEE-HELP assistance, or would be so

- entitled but for the previous operation of this section, or section 36-12, in relation to the other unit of study;
- (c) the sum of the EFTSL values of each other accelerator program course:
- (i) that has a census date during the 12 month period ending on the census date for the new course; and
 - (ii) for which the person is entitled to STARTUP-HELP assistance, or would be so entitled but for the previous operation of this section in relation to the other accelerator program course.
- (2) Subsection (1) does not apply if the higher education provider determines that undertaking the new course will not impose an unreasonable study load on the person, having regard to:
- (a) whether the person has the demonstrated capacity and capability to successfully complete courses of study or *accelerator program courses that have a combined total *EFTSL value of more than 2; and
 - (b) the matters (if any) specified by the Higher Education Provider Guidelines for the purposes of this paragraph.
- Note: A decision under this subsection that undertaking a new accelerator program course will impose an unreasonable study load on a student is reviewable under Part 5-7.
- (3) A decision of a higher education provider under subsection (2) must be in accordance with the Higher Education Provider Guidelines.
- (4) If a determination under subsection (2) is made in writing, the determination is not a legislative instrument.
- (5) If a higher education provider is unable to act for one or more of the purposes of this section, the *Secretary may act as if one or more of the references in this section to the provider were a reference to the Secretary.

128B-20 No entitlement: overseas campus

A student is not entitled to *STARTUP-HELP assistance for an *accelerator program course if the course is, or is to be, undertaken by the student primarily at an overseas campus.

128B-25 Accelerator program course

- (1) An *accelerator program course* is a structured and integrated program of education and mentoring that:
 - (a) is designed to develop a person's skills, capabilities and connections for the purposes of startup businesses; and
 - (b) meets the requirements in subsection (2).
- (2) The requirements are that:
 - (a) the course leads to the award of a qualification accredited by the higher education provider under subsection (3); and
 - (b) the course has an *EFTSL value of at least 0.5 EFTSL and no more than one EFTSL; and
 - (c) any other requirements set out in the STARTUP-HELP Guidelines are met.
- (3) For the purposes of paragraph (2)(a), a higher education provider may self-accredit a qualification as being integral to the development of startup businesses, if the provider is:
 - (a) registered under the *TEQSA Act in the provider category "Australian University" or "University College"; and
 - (b) authorised under that Act to self-accredit some or all of its courses of study.
- (4) In self-accrediting the qualification, the higher education provider must, as far as practicable, apply the same procedures it applies when self-accrediting a *course of study.
- (5) Without limiting the matters that may be included in the STARTUP-HELP Guidelines made for the purposes of paragraph (2)(c), those guidelines must require that the higher education provider providing the *accelerator program course has arrangements in place to ensure that, in circumstances where a student creates intellectual property through undertaking the course, the student owns the intellectual property unless there is an agreement that provides otherwise in place between the student and the provider.

128B-30 Citizenship or residency requirements

- (1) A student meets the citizenship or residency requirements under this section in relation to an *accelerator program course if the student is:
 - (a) an Australian citizen; or
 - (b) a *permanent humanitarian visa holder, or an *eligible former permanent humanitarian visa holder, who will be resident in Australia for the duration of the accelerator program course.
- (2) In determining, for the purposes of paragraph (1)(b), whether the student will be resident in Australia for the duration of the *accelerator program course, disregard any period of residence outside Australia that:
 - (a) cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of the accelerator program course; or
 - (b) is required for the purpose of completing a requirement of the accelerator program course.
- (3) A student also meets the citizenship or residency requirements under this section in relation to an *accelerator program course if the student:
 - (a) is a New Zealand citizen who will be resident in Australia for the duration of the accelerator program course; and
 - (b) holds a special category visa under the *Migration Act 1958*; and
 - (c) both:
 - (i) first began to be usually resident in Australia at least 10 years before the day referred to in subsection (4) (the **test day**); and
 - (ii) was a *dependent child when the student first began to be usually resident in Australia; and
 - (d) has been in Australia for a period of, or for periods totalling, 8 years during the 10 years immediately before the test day; and
 - (e) has been in Australia for a period of, or for periods totalling, 18 months during the 2 years immediately before the test day.

- (4) In determining, for the purpose of paragraph (3)(a), whether the student will be resident in Australia for the duration of the *accelerator program course, disregard any period of residence outside Australia that:
- (a) cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of the accelerator program course; or
 - (b) is required for the purpose of completing a requirement of the accelerator program course.
- (5) For the purposes of subsection (3), the day is the earlier of:
- (a) if the student has previously made a successful *request for Commonwealth assistance under this Chapter for a unit that forms part of a *course of study, or for another *accelerator program course—the day the student first made such a request; or
 - (b) otherwise—the day the student made the request for Commonwealth assistance in relation to the accelerator program course.
- (6) Despite subsections (1), (2) and (3), a student does not meet the citizenship or residency requirements in relation to an *accelerator program course if the higher education provider reasonably expects that the student will not undertake in Australia any of the accelerator program course.

128B-35 Selection of students for receipt of STARTUP-HELP assistance

- (1) The STARTUP-HELP Guidelines may set out principles and procedures that higher education providers must follow in deciding whether to select persons for receipt of *STARTUP-HELP assistance.
 - (2) Any decision by a higher education provider whether to select a person for receipt of *STARTUP-HELP assistance must be made in accordance with the STARTUP-HELP Guidelines.
 - (3) Without limiting the matters that may be included in the STARTUP-HELP Guidelines made for the purposes of subsection (2), those guidelines may deal with:
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- (a) the number of its students whom higher education providers may select for receipt of *STARTUP-HELP assistance; or
- (b) how that number is to be determined.

128B-40 Allocation of STARTUP-HELP assistance

- (1) The STARTUP-HELP Guidelines must include principles and procedures for ensuring, so far as reasonably practicable, that at least 25% of the persons selected for receipt of *STARTUP-HELP assistance are students enrolled in an *accelerator program course at a regional university.
- (2) For the purposes of subsection (1), a **regional university** is one of the following:
 - (a) Charles Sturt University;
 - (b) Central Queensland University;
 - (c) Federation University Australia;
 - (d) Southern Cross University;
 - (e) University of New England;
 - (f) University of Southern Queensland;
 - (g) University of the Sunshine Coast;
 - (h) any other university, or particular campus of a university, specified in the STARTUP-HELP Guidelines.
- (3) The Minister must not specify a university, or particular campus of a university, in the START-UP HELP Guidelines made for the purposes of paragraph (2)(h), unless the university or campus is located in a Remoteness Area categorised under the *ABS Remoteness Structure as Inner Regional Australia, Outer Regional Australia, Remote Australia or Very Remote Australia.

Division 128C—How are amounts of STARTUP-HELP assistance worked out?

128C-1 The amount of STARTUP-HELP assistance for an accelerator program course

The amount of *STARTUP-HELP assistance to which a student is entitled for an *accelerator program course is the difference between:

- (a) the student's *accelerator program course fee for the course; and
- (b) the sum of any *up-front payments made in relation to the course.

128C-5 Up-front payments

- (1) An *up-front payment*, in relation to an *accelerator program course for which a student is liable to pay an *accelerator program course fee, is a payment of all or part of the student's accelerator program course fee for the course, other than a payment of *STARTUP-HELP assistance under this Part.
- (2) The payment must be made on or before the *census date for the course.

128C-10 Maximum accelerator program course fee

- (1) A person's *accelerator program course fee, for an *accelerator program course, must not exceed:
 - (a) for a course that has an *EFTSL value of one EFTSL—the *maximum student contribution amount specified, in item 4 of the table in section 93-10, for a place for a *non-grandfathered student in a unit of study in Medicine, Dentistry or Veterinary Science; or
 - (b) for a course that has an EFTSL value of less than one EFTSL—the amount worked out as follows:

$$\frac{\text{The amount mentioned in paragraph (a)}}{\text{The EFTSL value of the accelerator program course}} \times \text{The EFTSL value of the accelerator program course}$$

- (2) If an amount worked out by using the formula in subsection (1) is an amount made up of dollars and cents, round the amount down to the nearest dollar.

Division 128D—How are amounts of STARTUP-HELP assistance paid?

Note: Part 5-1 deals generally with payments by the Commonwealth under this Act.

128D-1 Payments to higher education providers

If a student is entitled to an amount of *STARTUP-HELP assistance for an *accelerator program course in which the student is enrolled with a higher education provider, the Commonwealth must:

- (a) as a benefit to the student, lend to the student the amount of STARTUP-HELP assistance; and
- (b) pay to the provider the amount lent in discharge of the student's liability to pay the student's *accelerator program course fee for the course.

128D-5 Repayment by higher education provider if STARTUP-HELP assistance is reversed

If an amount of *STARTUP-HELP assistance that a person received for an *accelerator program course is *reversed under Division 128E, the higher education provider must:

- (a) pay to the Commonwealth an amount equal to the amount (if any) that was paid to the provider for the course under section 128D-1; and
- (b) pay to the person an amount equal to the payment, or the sum of the payments, that the person made in relation to the person's *accelerator program course fee for the course.

128D-10 Implications of reversal for person's liability to higher education provider for accelerator program course fee

If an amount of *STARTUP-HELP assistance received by a person for an *accelerator program course is *reversed under Division 128E, the person is discharged from all liability to pay or

account for so much of the person's *accelerator program course fee for the course as is equal to that amount.

Division 128E—Reversal of STARTUP-HELP assistance

Subdivision 128E-A—Reversal in special circumstances

128E-1 Reversal of STARTUP-HELP assistance: special circumstances

- (1) A higher education provider must, on the *Secretary's behalf, determine that this section applies to a person, in relation to an amount of *STARTUP-HELP assistance that the person received for an *accelerator program course with the provider, if:
 - (a) the person has been enrolled in the accelerator program course with the provider; and
 - (b) the person has not completed the requirements for the accelerator program course during the period during which the person undertook, or was to undertake, the course; and
 - (c) the provider is satisfied that special circumstances apply to the person (see section 128E-5); and
 - (d) the person applies in writing to the provider for either or both of the following:
 - (i) the repayment of any amounts that the person paid in relation to the person's *accelerator program course fee;
 - (ii) the remission of the person's *STARTUP-HELP debt in relation to the accelerator program course; and
 - (e) either:
 - (i) the application is made before the end of the application period under section 128E-10; or
 - (ii) the provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period.

Note: A decision that this section does not apply to a person is reviewable under Part 5-7.

- (2) If the provider determines that this section applies to the person in relation to the amount of assistance, the amount is **reversed**.

Note: For the consequences if an amount of assistance is reversed, see sections 128D-5, 128D-10 and 137-17. See also paragraph 128B-1(1)(c).

- (3) If the provider is unable to act for one or more of the purposes of this Subdivision, the *Secretary may act as if one or more of the references in this Subdivision to the provider were a reference to the Secretary.

128E-5 Special circumstances

- (1) For the purposes of paragraph 128E-1(1)(c), special circumstances apply to the person if and only if the higher education provider receiving the application is satisfied that circumstances apply to the person that:
- (a) are beyond the person's control; and
 - (b) do not make their full impact on the person until on or after the *census date for the *accelerator program course; and
 - (c) make it impracticable for the person to complete the requirements for the course in the period during which the person undertook, or was to undertake, the course.
- (2) If the Administration Guidelines specify circumstances in which a higher education provider will be satisfied of a matter referred to in paragraph 36-21(1)(a), (b) or (c), any decision of a higher education provider under this section must be in accordance with any such guidelines.

Note: The matters referred to in paragraphs 36-21(1)(a), (b) and (c) (which relate to special circumstances that apply to repaying a student contribution amount or an amount of HECS-HELP assistance) are identical to the matters referred to in paragraphs (1)(a), (b) and (c) of this section.

128E-10 Application period

- (1) If:
- (a) the person applying under paragraph 128E-1(1)(d) in relation to an amount of *STARTUP-HELP assistance for an *accelerator program course has withdrawn their enrolment in the course; and
 - (b) the higher education provider gives notice to the person that the withdrawal has taken effect;

the application period for the application is the period of 12 months after the day specified in the notice as the day the withdrawal takes effect.

- (2) If subsection (1) does not apply, the application period for the application is the period of 12 months after the end of the period during which the person undertook, or was to undertake, the course.

128E-15 Dealing with applications

- (1) If:
- (a) the application is made under paragraph 128E-1(1)(d) before the end of the relevant application period; or
 - (b) the higher education provider waives the requirement that the application be made before the end of that period, on the ground that it would not be, or was not, possible for the application to be made before the end of that period;
- the provider must, as soon as practicable, consider the matter to which the application relates and notify the applicant of the decision on the application.
- (2) The notice must include a statement of the reasons for the decision.

Subdivision 128E-B—Reversal in other circumstances

128E-20 Reversal of STARTUP-HELP assistance: no tax file number

An amount of *STARTUP-HELP assistance that a person received for an *accelerator program course with a higher education provider is *reversed* if:

- (a) the person has been enrolled in the accelerator program course with the provider; and
- (b) subsection 193-20(1) (no entitlement to STARTUP-HELP assistance for students without tax file numbers) applies to the person in relation to the course.

Note: For the consequences if an amount of assistance is reversed, see sections 128D-5, 128D-10 and 137-17. See also paragraph 128B-1(1)(c).

128E-25 Reversal of STARTUP-HELP assistance: higher education provider completes request for assistance

An amount of *STARTUP-HELP assistance that a person received for an *accelerator program course with a higher education provider is *reversed* if the provider completes any part of the *request for Commonwealth assistance in relation to the course that the person is required to complete.

Note: For the consequences if an amount of assistance is reversed, see sections 128D-5, 128D-10 and 137-17. See also paragraph 128B-1(1)(c).

128E-30 Reversal of STARTUP-HELP assistance: no entitlement

An amount of *STARTUP-HELP assistance that a person received for an *accelerator program course with a higher education provider is *reversed* if the *Secretary is satisfied that the person was not entitled to receive STARTUP-HELP assistance for the course with the provider.

Note: For the consequences if an amount of assistance is reversed, see sections 128D-5, 128D-10 and 137-17. See also paragraph 128B-1(1)(c).

128E-35 Reversal of STARTUP-HELP assistance: no assessment of whether academically suited

An amount of *STARTUP-HELP assistance that a person received for an *accelerator program course with a higher education provider is *reversed* if the person has not been assessed by the provider as academically suited to undertake the course.

128E-40 Reversal of STARTUP-HELP assistance: material non-compliance

- (1) An amount of *STARTUP-HELP assistance that a person received for an *accelerator program course provided during a period by a higher education provider is *reversed* if a report of an audit conducted in accordance with subsection (2) finds that there is any material non-compliance with respect to the course provided in the period.

Schedule 1 Startup year
Part 1 STARTUP-HELP assistance

Note: For the consequences if an amount of assistance is reversed, see sections 128D-5, 128D-10 and 137-17. See also paragraph 128B-1(1)(c).

- (2) The STARTUP-HELP Guidelines must require higher education providers that provide *accelerator program courses to conduct internal audits, or to arrange for audits, of compliance with the STARTUP-HELP Guidelines with respect to the courses. The Guidelines must prescribe any or all of the following:
- (a) circumstances in which audits must be conducted or arranged;
 - (b) requirements in relation to when and how audits must be conducted or arranged and reported on.

26 Section 134-1

Omit “or SA-HELP assistance”, substitute “, SA-HELP assistance or STARTUP-HELP assistance”.

27 After paragraph 137-1(ca)

Insert:

- (cb) *STARTUP-HELP debts;

28 After section 137-16

Insert:

137-17 STARTUP-HELP debts

Incurring STARTUP-HELP debts

- (1) A person incurs a debt to the Commonwealth if, under section 128D-1, the Commonwealth:
- (a) makes a loan to the person; and
 - (b) uses the amount lent to make a payment in discharge of the person’s liability to pay an *accelerator program course fee for an *accelerator program course.

The debt is a ***STARTUP-HELP debt***.

- (2) The amount of the *STARTUP-HELP debt is the amount of the loan.

When STARTUP-HELP debts are incurred

- (3) A *STARTUP-HELP debt is taken to have been incurred by a person immediately after the *census date for the course, whether or not the Commonwealth has made a payment in respect of the person's *accelerator program course fee for the course.

Remission of STARTUP-HELP debts

- (4) A person's *STARTUP-HELP debt in relation to an *accelerator program course is taken to be remitted if an amount of *STARTUP-HELP assistance that a person received for the course is *reversed under Division 128E.

29 Subsection 140-5(1) (method statement, after paragraph (ea) of step 2)

Insert:

(eb) *STARTUP-HELP assistance for an *accelerator program course provided by one particular higher education provider; or

30 Subsection 140-5(1) (method statement, step 2, note)

After "(ea),", insert "(eb),".

31 Subsection 140-25(1A) (method statement, after paragraph (ea) of step 1)

Insert:

(eb) *STARTUP-HELP assistance for an *accelerator program course provided by one particular higher education provider; or

32 Subsection 140-25(1A) (method statement, step 1, note)

After "(ea),", insert "(eb),".

33 Subparagraph 154-55(1)(a)(iii)

Omit "period; and", substitute "period;".

34 At the end of paragraph 154-55(1)(a)

Add:

- (iv) *STARTUP-HELP assistance for an *accelerator program course; and

35 After subsection 169-5(1)

Insert:

- (1A) A higher education provider must also give such notices as are required by the Administration Guidelines to a person:
 - (a) who is enrolled with the provider for an *accelerator program course; and
 - (b) who is seeking Commonwealth assistance under this Act for the accelerator program course or for a *student services and amenities fee imposed on the person by the provider.

36 After section 169-15

Insert:

169-16 Charging accelerator program course fees

- (1) A higher education provider:
 - (a) must require any *domestic student who is enrolling in an *accelerator program course with the provider to pay to the provider the student's *accelerator program course fee for the course; and
 - (b) must not require any domestic student to pay any other *fee for the course.
- (2) However, a higher education provider must repay to a person any payment of the person's *accelerator program course fee for an *accelerator program course that the person made on or before the *census date for the course if the person is no longer enrolled in the course at the end of the census date.

Note: Other provisions about accelerator program course fees are set out in Subdivision 19-F and Part 3-7.

37 After section 169-17

Insert:

169-18 Requirements relating to withdrawal from accelerator program courses

- (1) The Higher Education Provider Guidelines may prescribe requirements to be complied with by higher education providers in relation to student withdrawal from *accelerator program courses.
- (2) Without limiting subsection (1), the Higher Education Provider Guidelines may:
 - (a) require that fees (however described) must not be charged by higher education providers for withdrawal, either generally or in specified circumstances; or
 - (b) specify requirements to be met in relation to re-enrolment after withdrawal; or
 - (c) specify requirements in relation to processes and procedures for dealing with student withdrawal from *accelerator program courses.
- (3) A higher education provider contravenes this subsection if:
 - (a) the provider is subject to a requirement under this section; and
 - (b) the provider fails to comply with the requirement.

Civil penalty: 120 penalty units.

38 After subsection 169-25(1)

Insert:

- (1A) A higher education provider must, for any *accelerator program course it provides or proposes to provide during a period ascertained in accordance with the Administration Guidelines, determine, for that period:
 - (a) a particular date to be the *census date for the course; and
 - (b) the *EFTSL value for the course.

39 Subsection 169-25(2)

After “(1)(a)”, insert “or (1A)(a)”.

40 Paragraphs 169-25(3)(a) and (b)

After “for the unit”, insert “or course”.

41 Subsection 169-25(4)

After “for the unit” (wherever occurring), insert “or course”.

42 Subsection 169-27(1)

Repeal the subsection, substitute:

- (1) An *EFTSL* is an equivalent full-time student load. It is a measure of the study load:
 - (a) in respect of a *course of study—for a year, of a student undertaking that course of study on a full-time basis; or
 - (b) in respect of an *accelerator program course—for the period of the accelerator program course, of a student undertaking that course on a full-time basis.

43 Subsection 169-27(2)

Omit “A particular amount of EFTSL is an amount of study, undertaken with a higher education provider as part of a *course of study”, substitute “For the purposes of a *course of study, a particular amount of EFTSL is an amount of study, undertaken with a higher education provider as part of the course”.

44 Before subsection 169-28(1)

Insert:

EFTSL value of a unit of study

45 After subsection 169-28(3)

Insert:

EFTSL value of an accelerator program course

- (3A) The *EFTSL value* of an *accelerator program course is the value that the higher education provider with which the course may be undertaken determines in writing to be the EFTSL value of the course, expressed as one *EFTSL or a fraction of one EFTSL.

*Determinations to be in accordance with Administration
Guidelines*

46 At the end of section 169-30

Add:

- (3) In communications under, or for the purposes of, this Act between the Commonwealth and a higher education provider concerning a person who:
- (a) is enrolled, or seeking to enrol, in an *accelerator program course with the provider; and
 - (b) has indicated that the person is seeking Commonwealth assistance under this Act for the accelerator program course; the provider must use any identifier for that person that the *Secretary has indicated must be used in such communications.

47 Paragraph 169-35(1)(a)

After “for a unit of study”, insert “or an *accelerator program course”.

48 Subsection 187-1(1)

After “Australia,”, insert “or in an *accelerator program course,”.

49 Subsection 187-1(1AA)

Repeal the subsection, substitute:

- (1AA) Compliance by a person with subsection (1) in relation to a *course of study, or an *accelerator program course, is to be ignored in determining whether there has been compliance by the person with subsection (1) in relation to any other course of study or accelerator program course.

50 After subsection 187-1(2)

Insert:

- (2A) If the student is seeking *STARTUP-HELP assistance for an *accelerator program course, the student does not meet the tax file number requirements for the assistance unless the student complies with subsection (1) on or before the *census date for the accelerator program course.

51 Subsection 187-1(3)

After “paragraph (1)(a)”, insert “, from a student enrolled or proposing to enrol in a unit of study,”.

52 After subsection 187-1(3)

Insert:

(3AA) A notification under paragraph (1)(a), from a student enrolled or proposing to enrol in an *accelerator program course, may be included in a *request for Commonwealth assistance, except a request for Commonwealth assistance relating to a *student services and amenities fee, that the student has given to the provider in relation to the accelerator program course.

53 Subsection 187-1(3B)

After “professionals”, insert “, or in an *accelerator program course,”.

54 Subsection 187-1(3C)

Repeal the subsection, substitute:

(3C) Compliance by a person with subsection (3B) in relation to the person’s actual or proposed enrolment in a *course of study or *bridging course for overseas-trained professionals, or an *accelerator program course, is to be ignored in determining whether there has been compliance by the person with subsection (3B) in relation to the person’s actual or proposed enrolment in another such course or bridging course or accelerator program course.

55 At the end of subsection 187-1(3E)

Add “, or in the *accelerator program course”.

56 Subsections 190-1(1) and 190-5(1)

After “of study”, insert “, or an *accelerator program course,”.

57 Subsection 190-20(1)

After “of study,”, insert “or an *accelerator program course,”.

58 Paragraph 193-1(4A)(a)

After “professionals”, insert “, or an *accelerator program course”.

59 Paragraph 193-1(4A)(c)

Omit “course or bridging course”, substitute “course or courses concerned”.

60 After subsection 193-1(4B)

Insert:

Requests for STARTUP-HELP assistance

(4C) A higher education provider must notify a person in writing how to *meet the tax file number requirements if:

- (a) the person is enrolled in an *accelerator program course with the provider; and
- (b) the person has, on or before the *census date for the accelerator program course, completed, signed and given to the *appropriate officer of the provider a *request for Commonwealth assistance in relation to the course; and
- (c) in that request, the person requests *STARTUP-HELP assistance for the course; and
- (d) the request does not include a number that purports to be the person’s *tax file number.

(4D) The provider must notify the person under subsection (4C):

- (a) on or before the *census date for the *accelerator program course; or
- (b) within 7 days after the person gives the provider the *request for Commonwealth assistance;

whichever is earlier.

61 Paragraph 193-1(5)(a)

Omit “or *SA-HELP assistance”, substitute “, *SA-HELP assistance or *STARTUP-HELP assistance”.

62 At the end of Division 193 of Part 5-5

Add:

193-20 No entitlement to STARTUP-HELP assistance for students without tax file numbers

- (1) This subsection applies to a person in relation to an *accelerator program course if:
- (a) the person is enrolled with a higher education provider in the course; and
 - (b) the provider receives notice under section 190-15 or 190-20 to the effect that the person does not have, or no longer has, a *tax file number; and
 - (c) at the end of 28 days after the provider receives that notice, the provider has not been notified of a number that the provider is satisfied (in accordance with subsection (2)) is a valid tax file number; and
 - (d) the person is entitled to *STARTUP-HELP assistance for the course (ignoring paragraph 128B-1(1)(f)).

Note: If this section applies then the amount of the STARTUP-HELP assistance is reversed (see section 128E-20). For the consequences if an amount of assistance is reversed, see sections 128D-5, 128D-10 and 137-17. See also paragraph 128B-1(1)(c).

- (2) A higher education provider must, in deciding whether it is satisfied that a number is a valid *tax file number for the purposes of paragraph (1)(c), comply with the guidelines issued by the *Commissioner under subsection 187-1(4).
- (3) A higher education provider must comply with any requirements, set out in guidelines issued by the *Commissioner, relating to procedures for informing persons of the need to obtain a valid *tax file number, where the persons may be affected by subsection (1) applying to them.
- (4) A guideline issued under subsection (3) is a legislative instrument.

63 Section 206-1 (after table item 2A)

Insert:

2AA A	A decision that a student is not a genuine student in relation to an *accelerator program course	section 128B-10	the *Secretary
2AA B	A decision that undertaking an *accelerator program course will impose an unreasonable study load on a student	subsection 128B-15(2)	(a) the higher education provider with whom the student is enrolled in the accelerator program course; or (b) if the *Secretary made the decision—the Secretary
2AA C	A decision that section 128E-1 does not apply to a person	subsection 128E-1(1)	(a) the higher education provider with whom the student is enrolled in the *accelerator program course; or (b) if the *Secretary made the decision that the section does not apply—the Secretary

64 Subsection 238-10(1) (table item 6, column headed “Provision”)

Omit “section 169-17”, substitute “section 169-17; section 169-18”.

65 Subsection 238-10(1) (after table item 7)

Insert:

7A STARTUP-HELP Guidelines Part 3-7

66 Subclause 1(1) of Schedule 1

Insert:

accelerator program course has the meaning given by subsection 128B-25(1).

accelerator program course fee has the meaning given by subsection 19-92(3).

67 Subclause 1(1) of Schedule 1 (subparagraph (a)(i) of the definition of *census date*)

Omit “section 169-25”, substitute “subsection 169-25(1)”.

68 Subclause 1(1) of Schedule 1 (after paragraph (a) of the definition of *census date*)

Insert:

- (aa) for an *accelerator program course for a period ascertained in accordance with the Administration Guidelines, means the date determined for that period under subsection 169-25(1A); and

69 Subclause 1(1) of Schedule 1 (definition of *EFTSL value*)

Repeal the definition, substitute:

EFTSL value:

- (a) of a unit of study—has the meaning given by subsection 169-28(1); or
- (b) of an *accelerator program course—has the meaning given by subsection 169-28(3A).

70 Subclause 1(1) of Schedule 1 (after paragraph (a) of the definition of *enrolled*)

Insert:

- (aa) a person *enrolled* in an *accelerator program course includes a person undertaking the accelerator program course; and

71 Subclause 1(1) of Schedule 1 (paragraph (ba) of the definition of *request for Commonwealth assistance*)

After “professionals”, insert “, or an *accelerator program course”.

72 Subclause 1(1) of Schedule 1 (after paragraph (ba) of the definition of *request for Commonwealth assistance*)

Insert:

- (bb) in relation to a person enrolling in an accelerator program course—has the meaning given by subsection 128B-1(6); and

73 Subclause 1(1) of Schedule 1

Insert:

reversed: see the following provisions for when an amount of *STARTUP-HELP assistance that a person received for an *accelerator program course with a higher education provider is *reversed*:

- (a) subsection 128E-1(2) (special circumstances);
- (b) section 128E-20 (no tax file number);
- (c) section 128E-25 (provider completes request for assistance);
- (d) section 128E-30 (no entitlement);
- (e) section 128E-35 (no assessment of whether academically suited);
- (f) section 128-40 (provider non-compliance).

73A Subclause 1(1) of Schedule 1

Insert:

STARTUP-HELP assistance means assistance payable under Part 3-7.

STARTUP-HELP debt has the meaning given by section 137-17.

74 Subclause 1(1) of Schedule 1 (after paragraph (a) of the definition of *student*)

Insert:

- (aa) a person who is enrolled in an *accelerator program course;
or

76 Subclause 1(1) of Schedule 1 (definition of *up-front payment*)

Repeal the definition, substitute:

up-front payment:

- (a) in relation to a unit of study, has the meaning given by section 93-15 or 107-5; or
- (b) in relation to an *accelerator program course, has the meaning given by section 128C-5.

Part 2—Student payments

Social Security Act 1991

77 Subsection 23(1)

Insert:

accelerator program course has the same meaning as in the *Higher Education Support Act 2003*.

STARTUP-HELP assistance has the same meaning as in the *Higher Education Support Act 2003*.

78 After paragraph 541B(1)(c)

Insert:

- (ca) if the course is an accelerator program course or a combined course that includes an accelerator program course—the person is entitled to STARTUP-HELP assistance for the accelerator program course; and

79 Paragraph 541B(1)(d)

Before “in the Secretary’s opinion”, insert “if the course is a combined course or a course other than an accelerator program course—”.

80 Subsection 541B(1) (note)

After “Note”, insert “1”.

81 At the end of subsection 541B(1)

Add:

Note 2: For combined courses, see the legislative instrument made under section 5D of the *Student Assistance Act 1973*.

82 After paragraph 569A(b)

Insert:

- (ba) if the course is an accelerator program course or a combined course that includes an accelerator program course—the

person is entitled to STARTUP-HELP assistance for the accelerator program course; and

83 Paragraph 569A(d)

Before “the person”, insert “if the course is a combined course or a course other than an accelerator program course—”.

84 Section 569A (note)

After “Note”, insert “1”.

85 At the end of section 569A

Add:

Note 2: For combined courses, see the legislative instrument made under section 5D of the *Student Assistance Act 1973*.

86 After subsection 569H(2)

Insert:

Combined course including accelerator program course

(2A) If the tertiary course is a combined course that combines an accelerator program course with a course at a particular level, the references in subsections (1) and (2) to other tertiary courses at the same level is a reference to other tertiary courses at that particular level.

Note 1: For combined courses, see the legislative instrument made under section 5D of the *Student Assistance Act 1973*.

Note 2: This section does not apply if the tertiary course is an accelerator program course that is not part of a combined course: see paragraph 569A(d).

87 After subsection 592N(1)

Insert:

(1A) To avoid doubt, a course of study or instruction includes an accelerator program course.

88 After paragraph 1061PB(1)(b)

Insert:

(ba) if the course is an accelerator program course or a combined course that includes an accelerator program course—the person is entitled to STARTUP-HELP assistance for the accelerator program course; and

89 Paragraph 1061PB(1)(d)

Before “the person”, insert “if the course is a combined course or a course other than an accelerator program course—”.

90 At the end of subsection 1061PB(1)

Add:

Note: For combined courses, see the legislative instrument made under section 5D of the *Student Assistance Act 1973*.

91 After subsection 1061PI(2)

Insert:

Combined course including accelerator program course

(2A) If the tertiary course is a combined course that combines an accelerator program course with a course at a particular level, the references in subsections (1) and (2) to other tertiary courses at the same level is a reference to other tertiary courses at that particular level.

Note 1: For combined courses, see the legislative instrument made under section 5D of the *Student Assistance Act 1973*.

Note 2: This section does not apply if the tertiary course is an accelerator program course that is not part of a combined course: see paragraph 1061PB(1)(d).

Social Security (Administration) Act 1999

92 Paragraph 195(2)(i)

After “course of study”, insert “(including an accelerator program course)”.

93 At the end of paragraph 195(2)(i)

Add:

Schedule 2—Australian Research Council

Australian Research Council Act 2001

1 At the end of subsection 48(2)

Add:

; (v) the financial year starting on 1 July 2025.

2 Paragraph 49(w)

Omit “\$815,288,000”, substitute “\$831,594,000”.

3 Paragraph 49(x)

Omit “\$812,207,000”, substitute “\$851,414,000”.

4 Paragraph 49(y)

Omit “\$811,169,000”, substitute “\$871,694,000”.

5 At the end of section 49

Add:

; and (z) for the financial year starting on 1 July 2025—\$893,036,000.

Schedule 3—Avondale University

Higher Education Support Act 2003

1 Subsection 16-20(1) (table)

Before:

Bond University Limited

insert:

Avondale University

2 Application provision

The amendment made by this Schedule has effect:

- (a) in relation to the making of grants—on and after 1 January 2024; and
- (b) otherwise—on and after the day the amendment commences.

Schedule 4—HELP assistance for New Zealand citizens who are permanent residents

Higher Education Support Act 2003

1 Paragraph 90-5(2A)(b)

Repeal the paragraph, substitute:

(b) either:

- (i) holds a special category visa under the *Migration Act 1958*; or
- (ii) is a *permanent visa holder who, immediately before becoming a permanent visa holder, held a special category visa under the *Migration Act 1958*; and

2 Paragraph 104-5(2A)(b)

Repeal the paragraph, substitute:

(b) either:

- (i) holds a special category visa under the *Migration Act 1958*; or
- (ii) is a *permanent visa holder who, immediately before becoming a permanent visa holder, held a special category visa under the *Migration Act 1958*; and

3 Paragraph 118-5(2)(b)

Repeal the paragraph, substitute:

(b) either:

- (i) holds a special category visa under the *Migration Act 1958*; or
- (ii) is a *permanent visa holder who, immediately before becoming a permanent visa holder, held a special category visa under the *Migration Act 1958*; and

4 Paragraph 126-5(1A)(b)

Repeal the paragraph, substitute:

- (b) on the day the fee is payable, either:
 - (i) holds a special category visa under the *Migration Act 1958*; or
 - (ii) is a *permanent visa holder who, immediately before becoming a permanent visa holder, held a special category visa under the *Migration Act 1958*; and

5 Paragraph 128B-30(3)(b)

Repeal the paragraph, substitute:

- (b) either:
 - (i) holds a special category visa under the *Migration Act 1958*; or
 - (ii) is a *permanent visa holder who, immediately before becoming a permanent visa holder, held a special category visa under the *Migration Act 1958*; and

6 Application of amendments

- (1) The amendment of section 90-5 of the *Higher Education Support Act 2003* made by this Schedule applies in relation to determining entitlement to HECS-HELP assistance for units of study with a census date that is on or after the day this Schedule commences.
- (2) The amendment of section 104-5 of the *Higher Education Support Act 2003* made by this Schedule applies in relation to determining entitlement to FEE-HELP assistance for units of study with a census date that is on or after the day this Schedule commences.
- (3) The amendment of section 118-5 of the *Higher Education Support Act 2003* made by this Schedule applies in relation to applications for receipt of OS-HELP assistance that are made on or after the day this Schedule commences.
- (4) The amendment of section 126-5 of the *Higher Education Support Act 2003* made by this Schedule applies in relation to requests for Commonwealth assistance in relation to a student services and amenities fee that are made on or after the day this Schedule commences.

*[Minister's second reading speech made in—
House of Representatives on 9 March 2023
Senate on 27 March 2023]*

(24/23)

*No. 36, 2023 Education Legislation Amendment (Startup Year and Other Measures) 45
Act 2023*